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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/507,088

08/23/2005

Hans-Joachim Weinand

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EXAMINER

LAMB, BRENDA A

ART UNIT

PAPER NUMBER

1734

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/507,088	<b>Applicant(s)</b> WEINAND, HANS-JOACHIM	
	<b>Examiner</b> Brenda A. Lamb	<b>Art Unit</b> 1734	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 23 August 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1 and 2 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-2 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 September 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>8/23/2005</u> . | 6) <input type="checkbox"/> Other: _____  |

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The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claim 1 is provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 1 of copending Application No. 10/507,089 in view of 1 is rejected under 35 U.S.C. 102(e) as being anticipated by Sugane et al 2001/0019004.

Copending Application No. 10/507,089 teaches a system for treating articles, comprising: treatment containers, in which the articles may be acted upon in each case by a treatment liquid; a feed device, by means of which the articles are conveyed through the system and in the process are dipped successively into the treatment containers, the feed device comprising at least one feed carriage which in turn comprises: running gear movable along the path of motion of the articles; at least one swivel arm coupled to the running gear; a holding or supporting device coupled to the

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swivel arm for at least one article and, mutually independently actuatable drives for translational movement, the swivelling of the at least one swivel arm and of the holding device. Copending Application No. 10/507,089 fails to claim that the system includes at a dripping zone downstream of the bath and a drier is disposed downstream of the dripping zone. However, it would have been obvious to modify Copending Application No. 10/507,089 apparatus to provide a dripping zone downstream of the bath and a drier is disposed downstream of the dripping zone since Sugane et al shows arranging a dripping zone downstream of the bath and a drier is disposed downstream of the dripping zone for the obvious reason to enable one to coat the article with different coating materials without cross-contamination of the coating material between the coating stations which apply different coating materials.

This is a provisional obviousness-type double patenting rejection.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-2 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The originally filed specification at paragraph 0011 discloses that system for treating articles including a feed device which is comprised of at least one feed carriage and the feed carriage acts as a tilting apparatus yet claim 1 at lines 5-7 and 10-12 sets forth that the tilting apparatus and feed carriage are separate elements of the system

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which is confusing. Claim 1 is confusing since it is unclear how "a tilting apparatus" as set forth at lines 25-26 relates to "a tilting apparatus" as set forth at lines 10-12.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-2 are rejected under 35 U.S.C. 102(e) as being anticipated by Sugane et al 2001/0019004.

Sugane et al teaches a system for treating articles, comprising: at least one bath, in which the articles may be acted upon in each case by a treatment liquid; a feed device, by means of which the articles are conveyed through the system and in the process are dipped successively into at least one bath, the feed device comprising at least one feed carriage which in turn comprises: running gear (elements 7-8) movable along the path of motion of the articles; at least one swivel arm 5 coupled to the running

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gear; a holding or supporting device 6 coupled to the swivel arm for at least one article and, mutually independently actuatable drives for translational movement, the swiveling of the at least one swivel arm and of the holding device (driving means for the rollers 7 for providing translational movement of the carrier as disclosed at column 9 lines 26-30; and driving system, a motor for driving the rotation or swiveling of the swivel arm and holding device); a dripping zone disposed downstream of the bath (see Figure 8); and a drier 12 disposed downstream of the dripping zone wherein the at least one feed carriage serves as a tilting apparatus and is movable over the dripping zone to a point in the vicinity of the drier. Thus Sugane et al teaches every structural element of the apparatus as set forth in claim 1. With respect to claim 2, Sugane et al shows in Figure 8 the feed carriage is controllable in such a way that its holding device is brought through at least two positions.

Claims 1-2 are rejected under 35 U.S.C. 103(a) as being unpatentable over DE 20022634 in view of Sugane et al 2001/0019004..

DE '634 teaches the design of a system for treating articles comprising at least one bath, in which a treatment liquid is situated, into which the articles are to be dipped; a feed device, which is adapted to convey the articles are conveyed through the system and in the process to dip into the at least one bath; a dripping zone, which is disposed in direction of motion downstream of a last bath; a drier disposed downstream of the dripping zone, and the feed device comprises at least one feed carriage, which in turn comprises: running gear movable along the path of motion of the articles; at least one swivel arm 18 coupled to the running gear; a holding device 14 coupled to the


swivel arm for the article; and mutually independently actuable drives for the translational movement, the swivelling motion of the at least one swivel arm and of the holding device (separate motors for translational movement and for swiveling movement of the of the holding devices); the at least one feed carriage simultaneously serves as a tilting apparatus. DE '634 teaches that some of the treatment stations have no liquids therein and obviously such stations act as a dripping zone. DE '634 fails to teach a drier downstream of the dripping zone. However, Sugane et al shows in Figure 1 that a dipping zone downstream of a coating bath and a drier adjacent a dipping zone. Therefore, it would have been obvious arrange a dipping zone downstream of a coating bath and a drier adjacent a dipping zone in the DE '634 system since Sugane et al shows doing so in a dip coating process for the obvious reason to enable one to coat the article with different coating materials without cross-contamination of the coating material between the coating stations which apply different coating materials. With respect to claim 2, DE '634 teaches at least one feed carriage is controllable in such a way that its holding device within the dripping zone is rotated through into at least two positions, in which it is tilted differently relative to the horizontal.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brenda A. Lamb whose telephone number is (571) 272-1231. The examiner can normally be reached on Monday-Tuesday and Thursday-Friday. The examiner can also be reached on alternate Wednesdays

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Philip Tucker, can be reached on (571) 272-1231. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Brenda A Lamb  
Examiner  
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